

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 7280	DATE	11/22/2000
CASE TITLE	Beverly Curtis vs. Orkin Exterminating Co., Inc.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. Plaintiff's counsel is given until November 29, 2000 within which to establish federal subject matter jurisdiction by an appropriate amendment to the Complaint, failing which this Court will be constrained to dismiss the Complaint and this action on jurisdictional grounds.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	SN courtroom deputy's initials	ED-7 FILED FOR DOCKETING 00 NOV 22 PM 4:24	number of notices	Document Number 2
			NOV 24 2000 date docketed	
			NA docketing deputy initials	
			11/22/2000 date mailed notice	
			SN mailing deputy initials	
Date/time received in central Clerk's Office				

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

BEVERLY CURTIS, et al.,

Plaintiff,

v.

ORKIN EXTERMINATING CO., INC.,

Defendant.

No. 00 C 7280

**DOCKETED**

NOV 24 2000

MEMORANDUM OPINION AND ORDER

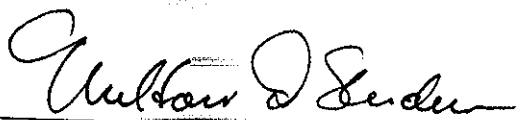
Three related plaintiffs--Beverly Curtis and Alberta and Ann Gresh--have filed a breach of contract and consumer fraud action against Orkin Exterminating Co., Inc. ("Orkin"), invoking federal jurisdiction on diversity of citizenship grounds. This memorandum order is issued sua sponte to direct plaintiffs' lawyer to cure an obvious flaw in the Complaint's jurisdictional allegations.

There is no problem with satisfaction of the necessary over-\$75,000 jurisdictional amount, given the nature of the Complaint's allegations and its prayer for relief. Nor is the Complaint wanting in its identification of the dual aspects of corporate citizenship on Orkin's part (see Complaint ¶5). But what plaintiffs' counsel has inexplicably done--inexplicably because by definition diversity of citizenship depends on citizenship--is to speak only of plaintiffs' places of residence (Complaint ¶¶2, 3 and 4), something that does not necessarily coincide with citizenship.

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There is really no justification for that kind of inattention to the most fundamental principles of federal jurisdiction. Indeed, our Court of Appeals has with some frequency trashed other lawsuits under like circumstances because of their failure to establish subject matter jurisdiction (see, e.g., Tylka v. Gerber Prods. Co., 211 F.3d 445, 447-49 (7<sup>th</sup> Cir. 2000) and numerous cases cited there).

Accordingly plaintiffs' counsel is given until November 29, 2000 within which to establish federal subject matter jurisdiction by an appropriate amendment to the Complaint, failing which this Court will be constrained to dismiss the Complaint and this action on jurisdictional grounds. And because there is no reason that plaintiffs should pay for the incremental legal work occasioned by that effort, no charge is to be made to plaintiffs for the added work and expense incurred by their counsel in correcting their own errors. Plaintiffs' counsel are ordered to apprise their clients to that effect by letter, with a copy to be transmitted to this Court's chambers as an informational matter (not for filing).



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Milton I. Shadur  
Senior United States District Judge

Date: November 22, 2000